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Ms. Marlene Dortch, Secretary Federal Communications Commission The Portals, TW-A325 445 12th Street, SW Washington, D.C. 20554

Re: Ex Parte Presentation – Review of the Section 251 Unbundling Obligations of

Incumbent Local Exchange Carriers; CC Docket Nos. 01-338, 96-98, 98-147

Dear Ms. Dortch:

On December 4, 2003, Dave Baker, Vice President, Law and Policy for EarthLink, Inc. and Mark O'Connor of Lampert & O'Connor, P.C. met with Jessica Rosenworcel, Legal Advisor to Commissioner Copps, and met with Jordan Goldstein, Senior Legal Advisor to Commissioner Copps, to discuss the above referenced proceedings.

During these meetings, EarthLink discussed the issues raised in its October 2nd Petition for Reconsideration of the line sharing portion of the FCC's Report and Order and Order on Remand released August 21, 2003 ("*R&O*") and previously filed positions in the above-referenced dockets. EarthLink outlined several issues that it believes compel the Commission to reconsider its decision, noting with Mr. Goldstein that the transition mechanism established will not adequately protect subscribers from the disruption in service that is likely to result from the elimination of line sharing. EarthLink urged the Commission to resolve the line sharing reconsideration before the DC Circuit rules in the pending judicial appeal of the *R&O*, and that, especially given likely remand of the UNE-P issues, the Commission should not have limited data CLEC competition to just that portion of the market served by line splitting and UNE-P (i.e., a small fraction of the retail market). EarthLink noted that the line sharing UNE would further the goals of Section 706 of the Act, and that 4 of the 5 Commissioners appear to support it. Because EarthLink is opposed to further deregulation of access to BOC fiber facilities, EarthLink urged the Commission to address line sharing in a separate reconsideration order.

Pursuant to the Commission's rules, one copy of this memorandum is being filed electronically in each of the above-referenced dockets for inclusion in the public record. Please do not hesitate to call me if you have any questions.

Respectfully submitted,

/s/ Mark J. O'Connor Counsel for EarthLink, Inc.